

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

LARRY MOORE,

Plaintiff,

Case Number: 07-13194

v.

Honorable Lawrence P. Zatkoff

TONIA GRANT, et al,

Respondents.

**OPINION AND ORDER ADOPTING
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

AT A SESSION of said Court, held in the
United States Courthouse, in the City of Port Huron,
State of Michigan, on the 30th day of August, 2010

PRESENT: THE HONORABLE LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Plaintiff filed the instant action alleging violations of his civil rights by the Defendants. This matter is currently before the Court on Magistrate Judge Michael Hluchaniuk's "Second Report and Recommendation," dated July 19, 2010 (Docket #38) (the "Second R&R"), wherein the Magistrate Judge recommends that: (1) Defendants' motions to dismiss (Docket #s 10 and 22) be granted, and (2) Plaintiff's cause of action be dismissed with prejudice. The Court notes that this is the second Report and Recommendation the Magistrate Judge has prepared with respect to the motions to dismiss filed by Defendants.

In the first Report and Recommendation, dated February 28, 2008 (the "First R&R"), the Magistrate Judge set forth two grounds for dismissal: (a) the three strikes rule, and (b) failure to state

a claim upon which relief could be granted. The Magistrate Judge's analysis in the Second R&R with respect to whether Plaintiff stated a claim upon which relief may be granted is the same as his analysis on that issue in the First R&R. Plaintiff filed timely objections to the First R&R, but Plaintiff has not filed any objections to the Second R&R. As the Magistrate Judge's analysis regarding the failure to state a claim issue is the same in both Reports and Recommendations, the Court has reviewed and considered the relevant objections filed by Plaintiff with respect to the First R&R.

After a thorough review of the court file, including Plaintiff's complaint, the Second R&R and Plaintiff's objections to the First R&R, this Court will adopt the Second R&R and enter it as the findings and conclusions of this Court. Before dismissing the case, however, the Court comments briefly on Plaintiff's objections to the First R&R that also are relevant to the Second R&R. In essence, Plaintiff argues that: (1) he is being held to the standard he would be if he was an attorney (if not higher), even though he is a pro se litigant, and (b) Defendants' interference with his ability to receive, send and copy legal documents violated his constitutional rights.

The Court finds that the Magistrate Judge construed Plaintiff's complaint liberally, in accord with the less stringent standard afforded to a pro se plaintiff. In addition, the Court concludes that Plaintiff's objections lack merit and are misplaced. Even if the Defendants' alleged actions had the effect of causing Plaintiff the injury(ies) he asserts in his complaint, such injuries were not the result of the violation of any of his constitutionally protected rights.

Therefore, for the reasons set forth in the Second R&R and above, the Court hereby GRANTS the motions to dismiss filed by Defendants (Docket #s 10 and 22). Accordingly, Plaintiff's cause of action is now DISMISSED WITH PREJUDICE. Judgment shall be entered accordingly.

An appeal from this Opinion and Order would be frivolous and could not be taken in good faith. Consequently, Plaintiff may not proceed without prepayment of the fees and costs on appeal if he decides to appeal this decision. 28 U.S.C. § 1915(a)(3); *Coppedge v. United States*, 369 U.S. 438, 445 (1962); *McGore v. Wrigglesworth*, 114 F.3d 601, 610-11 (6th Cir. 1997).

IT IS SO ORDERED.

S/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: August 30, 2010

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on August 30, 2010.

S/Marie E. Verlinde
Case Manager
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